

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 10, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No. 15KD-209

Kauai

Rescind Prior Board Action of August 12, 2016, Agenda Item D-1, Amend Prior Board Action of March 24, 2016, Agenda Item D-1, Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).

Amend prior Board Action of March 24, 2016, Agenda Item D-3, Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).

The purpose of this amendment is to add two (2) more parcels for the subject project, TMK Nos. (4) 2-1-007:159 & 161 (portions) and to correct a Tax Map Key reference in the prior Board action of March 24, 2016.

REMARKS:

Staff is requesting that the prior Board of Land and Natural Resources' action of August 12, 2016, under agenda item D-1, be rescinded because there was an error in identifying the agenda item number of the March 24, 2016 meeting that staff was seeking to amend. The agenda item was incorrectly identified as item D-1 when it should have been identified as item D-3. A copy of the approved submittal that staff requests to rescind is attached as **Exhibit 1**.

Additionally, staff seeks to renew its amendment of the Board's prior action March 24, 2016, under agenda item D-3, based on the corrected record. At that meeting, the Board gave preliminary approval for the acquisition of easements on private lands for the Ko Road Rockfall Mitigation Project – Makai Section, Part Two. A copy of the approved submittal of March 24, 2016 is attached as **Exhibit 2**.

Since the Board approval, the consultant, Hart Crowser, Inc., who is contracted by the Department of Land and Natural Resources, Engineering Division for this project

and its sub-contractor, Esaki Surveying and Mapping, Inc., determined that two (2) additional parcels will be required to support the ground anchors for the rockfall drape and wired netting. The additional parcels (**Exhibit 3**) are:

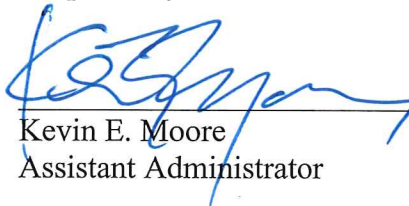
- 1) Kiana Rose Kazuko Pigao; Tenant in Severalty; TMK (4) 2-1-007:159 (por.) – Lot 90
- 2) Anson A. Lee and Frances L. Lee, Trustees, under the Anson A. and Frances L. Lee Living Trust, dated March 16, 2010, and any amendments thereto; TMK (4) 2-1-007:161 (por.) – Lot 92.

Also, on page 1 of the March 24, 2016 Board action under the heading “Private Landowners”, there is an incorrect tax map key number for Lot 89. The correct tax map key number for Lot 89 is TMK: (4) 2-1-007:158.

RECOMMENDATION: That the Board:

1. Rescind the prior Board action of August 12, 2016, agenda item D-1.
2. Amend its prior Board action of March 24, 2016, under agenda item D-3 to include two (2) additional private landowners:
 - a. Kiana Rose Kazuko Pigao; Tenant in Severalty; TMK (4) 2-1-007:159 (por.)
 - b. Anson A. Lee and Frances L. Lee, Trustees, under the Anson A. and Frances L. Lee Living Trust, dated March 16, 2010, and any amendments thereto; TMK (4) 2-1-007:161 (por.)
3. Confirm that the correct tax map key for Lot 89 is TMK (4) 2-1-007:158.
4. Except as amended hereby, all terms and conditions listed in the Board’s action of March 24, 2016 shall remain the same

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 12, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No. 15KD-209

Kauai

Amend prior Board Action of March 24, 2016, Agenda Item D-1, Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions).

The purpose of this amendment is to add two (2) more parcels for the subject project, TMK Nos. (4) 2-1-007:159 & 161 (portions) and to correct a Tax Map Key reference in the prior Board action.

BACKGROUND:

At its meeting of March 24, 2016, under agenda item D-1, the Board approved the above subject matter regarding the preliminary approval of acquisition of easements on private lands. A copy of the approved submittal is attached as **Exhibit 1**.

Since the board approval, the consultant, Hart Crowser, Inc., who is contracted by the Department of Land and Natural Resources, Engineering Division for this project and its sub-contractor, Esaki Surveying and Mapping, Inc. determined that two (2) additional parcels will be required to support the ground anchors for the rockfall drape and wired netting. The additional parcels (**Exhibit 2**) are:

- 1) Kiana Rose Kazuko Pigao; Tenant in Severalty; TMK (4) 2-1-007:159 – Lot 90
- 2) Anson A. Lee and Frances L. Lee, Trustees, under the Anson A. and Frances L. Lee Living Trust, dated March 16, 2010, and any amendments thereto; TMK (4) 2-1-007:161 – Lot 92

Also, on page 1 of the prior Board action under the heading "Private Landowners", there is an incorrect tax map key number for Parcel 89. The correct tax

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

August 12, 2016 LD

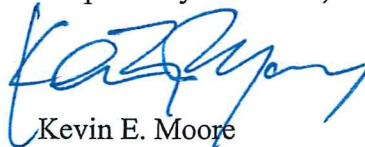
Exhibit 1 D-1

map key number for Parcel 89 is TMK: (4) 2-1-007:158.

RECOMMENDATION: That the Board:

1. Amend its prior Board action of March 24, 2016, under agenda item D-1 to include two (2) additional private landowners:
 - a. Kiana Rose Kazuko Pigao; Tenant in Severalty; TMK (4) 2-1-007:159
 - b. Anson A. Lee and Frances L. Lee, Trustees, under the Anson A. and Frances L. Lee Living Trust, dated March 16, 2010, and any amendments thereto; TMK (4) 2-1-007:161
2. Confirm that the correct tax map key for Parcel 89 is TMK (4) 2-1-007:158.
3. Except as amended hereby, all terms and conditions listed in the Board's action of March 24, 2016 shall remain the same.

Respectfully submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 24, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No. 15KD-209

Kauai

Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road
Rockfall Mitigation Project – Makai Section, Part Two, Eleele, Koloa, Kauai, Tax
Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions)

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON
March 24, 2016 uo

APPLICANT AGENCY:

Department of Land and Natural Resources, Land Division (“Land Division”).

PRIVATE LANDOWNERS:

- 1) Teresa A. Makinney; Tenant in Severalty; TMK (4) 2-1-007:150 (por.) – Lot 81
- 2) Mayumi M. Lomongo, life estate, Michelle M. Lomongo, remainder; TMK (4) 2-1-007:151 (por.) – Lot 82
- 3) Perry Jonn Shoji Morita and Taryn Lei Mariko Siu Lan Morita; Tenants by the Entirety; TMK (4) 2-1-007:156 (por.) – Lot 87
- 4) Ernesto S. Nacapuy and Annie Fe Nacapuy; Tenants by the Entirety; TMK (4) 2-1-007:157 (por.) – Lot 88
- 5) Kirk Armand Marois; Tenant in Severalty; TMK (4) 2-1-007:0158 (por.) – Lot 89
- 6) Miles H. Hashimoto and Claire S. Shibuya; Joint Tenants with Right of Survivorship; TMK (4) 2-1-007:160 (por.) – Lot 91

LEGAL REFERENCE:

Sections 107-10 and 171-30, Hawaii Revised Statutes (“HRS”), as amended, and Chapter 101, HRS, as may be necessary.

LOCATION:

Privately-owned lands of Teresa A. Makinney; Mayumi M. Lomongo & Michelle M. Lomongo; Perry Jonn Shoji Morita & Taryn Lei Mariko Siu Lan Morita; Ernesto S. Nacapuy & Annie Fe Nacapuy; Kirk Armand Marois; and Miles H. Hashimoto & Claire S. Shibuya; situated at Eleele, Koloa, Kauai, identified by Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions) as shown on

the attached map labeled **Exhibit A**.

AREA:

8,537.76 sq. or 0.196 acre, more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Residential (R-6)

CURRENT USE:

The easements that are being proposed for purchase are located on private lands used for residential purposes. The easements will affect unimproved portions of the parcels.

CONSIDERATION:

One-time payment to be determined by an independent appraiser, subject to review and approval by the Chairperson.

PURPOSE:

Easement purposes for the installation and maintenance of a rockfall mitigation system.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council dated June 5, 2015, the subject project is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 1, that states: "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director that are necessary to protect public health, safety, welfare, or public trust resources." (See **Exhibit B**).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for the appraisal cost to determine the value of the easements to be acquired;
- 2) Provide survey maps and descriptions for the easements according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

Hart Crower, Inc. (“Consultant”) has been contracted by the Department of Land and Natural Resources, Engineering Division (“Engineering Division”) for the Ko Road

Rockfall Mitigation Project. The Consultant has recommended the installation of rockfall drape and anchored wired netting for which supporting ground anchors are required. Portions of the cliff have limited anchoring space and the easements are required to properly install the anchors in or near adjacent private properties. The Consultant is proposing an easement of approximately 23 feet from the property lines of Lots 81, 82, 87, 88, 89 & 91.

Land Division will have jurisdiction of the lands acquired and funding for the purchase of the easements and costs for the mitigation project will be allocated from the Engineering Division.

Land Division is seeking preliminary approval for the purchase of the easements on the subject private lands. Details regarding the size, location, improvements and compensation will be determined based on a survey, recommendations from the Consultant and Engineering Division, and certified appraisals of the final easement areas.

Various government agencies and interest groups were solicited for comments.

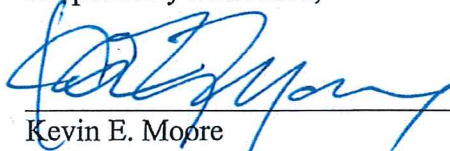
AGENCIES	COMMENTS
State of Hawaii:	
DOH	No response by suspense date
DHHL	No response by suspense date
DOT	No comments
DLNR – Historic Preservation	See Exhibit C
DLNR – Conservation and Coastal Lands	No response by suspense date
County of Kauai	
Planning Department	No response by suspense date
Public Works	No objections
Other Agencies / Interest Groups:	
Office of Hawaiian Affairs	No objections or comments

Staff will return to the Board at a later date to report on the value of the easements as determined by appraisal and verification of title to the various private parcels. At that time, staff will request final approval to acquire the easements.

RECOMMENDATION: That the Board:

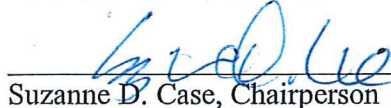
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Grant preliminary approval for the acquisition of easements on the subject private lands under the terms and conditions cited above which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current easement on private property document form, as may be amended from time to time;
 - b. Staff shall return to the Board for final approval for acquisition of the easements to report on the easement costs and status of title on the private parcels;
 - c. Eminent domain proceedings, as may be necessary for the acquisition, pursuant to Chapter 101, HRS;
 - d. Review and approval by the Department of the Attorney General; and
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

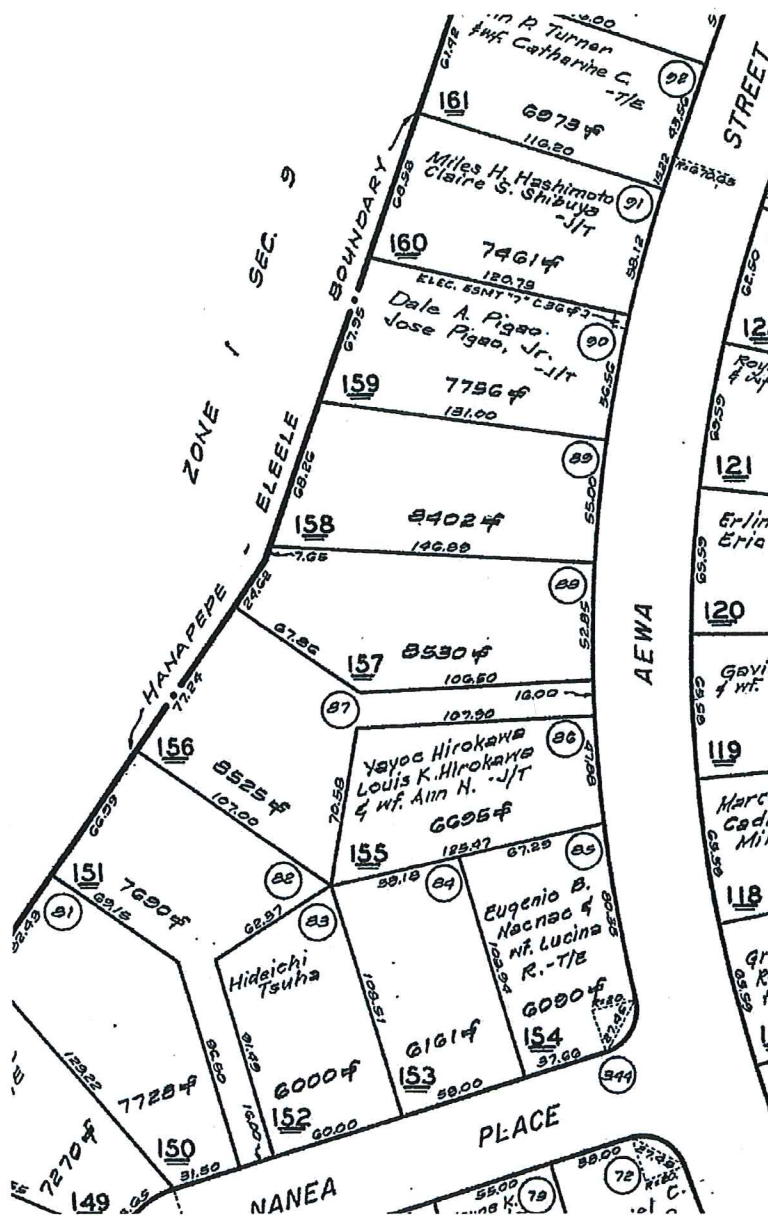
Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson



TMK Nos. (4) 2-1-007:150, 151, 156, 157, 158 & 160 (pors.)

Exhibit A

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 24, 2016

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Preliminary Approval of Acquisition of Easements on Private Lands for Ko Road Rockfall Mitigation Project – Makai Section, Part Two

Project / Reference No.: PFS No. 15KD - 209

Project Location: Eleele, Koloa, Kauai, Tax Map Keys: (4) 2-1-007:150, 151, 156, 157, 158 & 160 (portions)

Project Description: The Ko Road Rockfall Mitigation Project consists of the installation of a rockfall drape and anchored wire netting along the cliff above Ko Road. Portions of the cliff have limited anchoring space and the easements are required to properly install the anchors in or near adjacent private properties.

Chap. 343 Trigger(s): Use of State Funds

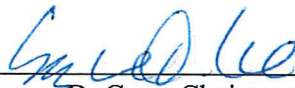
Exemption Class No.: In accordance with Hawaii Administrative Rule Section 11-200-8(a)(1) and (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to the Exemption Class No. 1. No. 1, that states "Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare or public trust resources."

Consulted Parties: DLNR – Engineering Division and the State Historic Preservation Division

Exhibit B

ecommendation:

That the Board finds this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



Suzanne D. Case, Chairperson

Date

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**HISTORIC PRESERVATION DIVISION
DEPARTMENT OF LAND AND NATURAL RESOURCES**

601 Kamokila Boulevard, Suite 555
Kapolei, HI 96806

WILLIAM J. AILA
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

JESSE K. SOUKI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

November 14, 2014

Tom Fijimoto
Lyons Construction

Honolulu, HI 96817

LOG NO: 2014.04704
DOC NO: 1410MN24
Archaeology

Dear Mr. Fijimoto:

**SUBJECT: Chapter 6E-8 Historic Preservation Review
Ko Road Rockfall Mitigation
Hanapepe Ahupua'a, Waimea District, Island of Kaua'i
TMK: (4) 1-9-03:01, 02, 03, 04, (4) 2-1-07:148-151, 156-161, 162-165 (4) 2-1-08:1-11**

We received your letter dated June 20, 2014 and appreciate your consultation with this office regarding the rockfall mitigation project planned along Ko Road, in Hanapepe. At the request of the Department of Land and Natural Resources (DLNR) Engineering Department, you contacted our office to discuss the potential to impact historic properties located along Ko Road in the subject TMKs, which include (4) 1-9-03: 01, 02, 03 and 04. In addition to the maps and plans you've provided, Allison Pyrch of HartCrowser, Tim Blackwood, and the DLNR Engineering Department have provided information about the project, which is located on state lands and not subject to federal funding. The rockfall mitigation will involve using mesh netting and anchors to secure the eroding rocks and sediment along the cliff. The design teams are still determining potential access routes to the area.

We responded to the initial consultation requesting a site visit in a letter dated September 30, 2014 (*Log No. 2014.02939, Doc. No1409MN30*). We have no Archaeological Inventory Surveys (AIS) on file for the subject properties. However, the State Inventory lists Hanapepe Complex (SIHP # 50-30-09-0060) which includes Site 298 within TMK: (4) 1-9-04. The complex is composed of agricultural terraces, as well as a platform and a cave.

On October 21, 2014, the Kaua'i archaeologist conducted a site visit with Brian Chang and Mark Brady from the DLNR Engineering Department and Tim Blackwood from Hart Crowser, Inc. Tim Blackwood provided plans prepared by Lyon Construction showing the project occurring in two phases: 1) the central/*mauka* section, and 2) the *makai* section. It is our understanding based on conversations during the site visit that the first phase of the project will be the *makai* section and includes only the area delineated in this set of plans, consisting of steep cliffs alongside Ko Road. The *mauka* section features a less steep cliff with rocky outcrops and vegetation.

In addition to the rockfall work within (4) 1-9-03:01-014, the *makai* section includes access areas within TMKs: (4) 2-1-07:148-151 and 156-161. The total acreage for this phase of the project is 2.65 acres. Rockfall mitigation within the *makai* central section involves staging steel netting on the top of the ridge via helicopter operations, and draping the steel netting over the cliff, which is then secured at the base of the cliff. The staging areas are to be determined, and may include the Hanapepe Head Start property, as well as private property lots. It is still being determined whether the steel netting will be secured into the cliff intermittently via pegs, or draped and anchored only at the bottom. Regardless, installation will include technicians rappelling over the cliff to ensure the netting is placed properly. The archaeologist walked the *makai* section, which contains some crevices at the base of the cliff which contain modern trash and graffiti. Higher on the cliff, there are a few crevices that look inaccessible. No surface historic properties were observed within the project area, and the potential for encountering historic properties is unlikely given the steepness of the landform. Therefore we believe that no historic properties will be affected for the *makai* section only. However, as with any land altering activity, should historic properties be encountered during either staging, or the project activities, including rappelling over the cliff, please contact the Kaua'i archaeologist so that appropriate mitigations may follow.

Exhibit C

Mr. Fijimoto
November 14, 2014

The *mauka* section involves rockfall mitigation along the base of the cliffs, and includes a total area of 2.14 acres. Access to the section may occur within TMKs: (4) 2-1-07:162-165 and (4) 2-1-08:1-10. Hartcrowser, Inc. and Lyon Construction propose building a rockfall fence along an area between Ko Road and the cliff base to deter rock spill into the roadway. However, the site visit to the *mauka* section of the project area revealed that areas along the river (on the opposite side of the road) are still used for taro cultivation. The slope of the cliffs in this section of the project area is less steep and characterized by rock outcrops and heavy vegetation. We believe that the potential exists to encounter historic properties within the mauka section of the project area, including potential agricultural features. Therefore, we request that an archaeological inventory survey (AIS) be conducted of the *mauka* section of the project area, in accordance with HAR §13-276. The AIS should include staging areas and areas at the top of the cliff utilized for access.

The design plans appear to pending revisions and funding and may change. **Please be advised that changes to the plan for rockfall mitigation or boundary of the project sections will require additional consultation with the State Historic Preservation Division.** The determinations contained in the letter are based on the existing plans and conversations from our site visit on October 21, 2014 and subsequent correspondence. Please contact Kaua'i archaeologist Mary Jane Naone at Maryjane.naone@hawaii.gov or at (808) 271-4940 if you have questions about this letter. We appreciate your assistance in preserving significant historic and cultural properties.

Aloha,

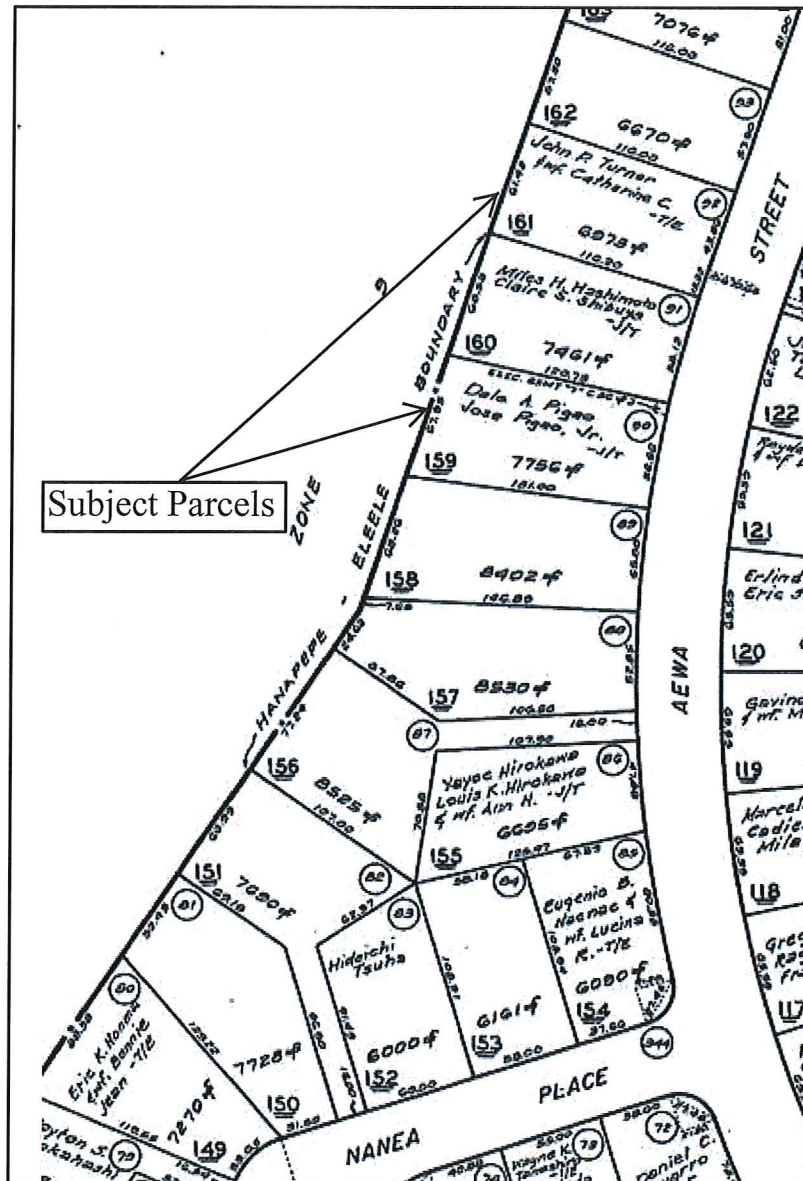


Mary Jane Naone
Kaua'i Lead Archaeologist

cc. Allison Pynch/Tim Blackwood
Hartcrowser

Vancouver, WA 96880-2927

Brian Chang, Engineering Division
DLNR
1151 Punchbowl Street, Room 221
Honolulu, Hawaii 96813



TMK Nos. (4) 2-1-007:159 & 161 (pors.)